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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHARLES DEMPSEY, individually, and
L.D., by her father and natural guardian,
CHARLES DEMPSEY,

Plaintiffs,

Case No. 19:cv:6780

v.

THE CITY OF ROCHESTER, a municipal entity,
JAVIER ALGARIN, ADAM GORMAN, "JOHN DOE" RPD
OFFICER RESPONSIBLE FOR TRAINING JAVIER ALGARIN,

Defendants.

Deposition Upon Oral Examination of:

LD

Location: City of Rochester Law Department
City Hall, Room 400A
30 Church Street
Rochester, New York 14614

Date: October 2, 2023

Time: 9:30 a.m.

Reported By: SANDRA C. HEWLETT, RPR
Alliance Court Reporting, Inc.
109 South Union Street, Suite 400
Rochester, New York 14607



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A P P E A R A N C E S

Appearing on Behalf of Plaintiffs:

Elliot D. Shields, Esq.

Roth & Roth, LLP

192 Lexington Avenue, Suite 802

New York, New York 10016

eshields@rothandrothlaw.com

Also Present:

Charles R. Dempsey III

Appearing on Behalf of Defendants:

Peachie L. Jones, Esq.

City of Rochester Law Department

City Hall, Room 400A

30 Church Street

Rochester, New York 14614

peachie.jones@cityofrochester.gov

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S T I P U L A T I O N S

MONDAY, OCTOBER 2, 2023;

(Proceedings in the above-titled matter
commencing at 9:37 a.m.)

* * *

IT IS HEREBY STIPULATED by and between the
attorneys for the respective parties that this
deposition may be taken by the Defendants at this time
pursuant to notice;

IT IS FURTHER STIPULATED, that all
objections except as to the form of the questions and
responsiveness of the answers, be reserved until the
time of the trial;

IT IS FURTHER STIPULATED, that pursuant to
Federal Rules of Civil Procedure 30(e)(1) the witness
requests to review the transcript and make any
corrections to same before any Notary Public;

IT IS FURTHER STIPULATED, that if the
original deposition has not been duly signed by the
witness and returned to the attorney taking the
deposition by the time of trial or any hearing in this
cause, a certified transcript of the deposition may be
used as though it were the original;

IT IS FURTHER STIPULATED, that the
attorneys for the parties are individually responsible



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1 LD - BY MS. JONES
2 for their certified transcript charge, including any
3 expedite or other related production charges in
4 accordance with Rochester Rules;

5 AND IT IS FURTHER STIPULATED, that the
6 Notary Public, SANDRA C. HEWLETT, RPR, may administer
7 the oath to the witness.

8 * * *

9 LD,
10 called herein as a witness, first being sworn,
11 testified as follows:

12 EXAMINATION BY MS. JONES:

13 Q. My name is Peachie. I'm an attorney for
14 the City of Rochester. Thank you for being here today
15 so I can take your deposition.

16 How old are you today?

17 A. 15.

18 Q. 15?

19 A. Uh-huh.

20 Q. Okay. You just agreed to tell the whole
21 truth.

22 What does that mean to you?

23 A. Um, just to not lie and not
24 over-exaggerate. To tell the truth.

25 Q. Do you think my shirt is the prettiest



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1 LD - BY MS. JONES

2 cat could come with you to your mom's house?

3 A. No.

4 Q. Did your -- did either pet come with you
5 to your grandmother's house?

6 A. No. I mean -- on visits occasionally, but
7 no.

8 Q. Why didn't the pets come with you to your
9 grandmother's house?

10 A. She has another cat who isn't very happy
11 around like dogs.

12 Q. Okay. What about KitKat, the cat?

13 A. Same difference -- or same thing.

14 Q. The cat doesn't like other cats?

15 A. Yeah.

16 Q. That's terrible.

17 Um, who named KitKat, the cat?

18 A. I do not remember.

19 Q. All right. Let's talk about the incident.

20 What had you been doing that day?

21 A. That day, it was -- me and my dad were
22 planning on going out for my birthday.

23 Q. Do you remember what the day -- do you
24 remember the day the incident occurred?

25 A. October 19th, 2018.



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1 LD - BY MS. JONES

2 Q. Is the 19th -- never mind.

3 Where did you go out to?

4 MR. SHIELDS: Objection.

5 A. We were planning on going out to a haunted
6 house.

7 Q. So what had you been doing that morning of
8 the incident?

9 A. I was going to school that day.

10 Q. What day of the week was this?

11 A. Friday.

12 Q. So what did you do after you got home from
13 school?

14 A. After I got home, I was just in the living
15 room watching TV.

16 Q. Who let Tesla out into the backyard?

17 A. My dad.

18 Q. Where were you when your dad let the dog
19 out?

20 A. In the living room.

21 Q. From where you were sitting in the living
22 room, could you see the back door from which your dad
23 let Tesla out?

24 A. Yes.

25 Q. What -- what happened after your dad let



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1 LD - BY MS. JONES

2 Tesla out?

3 A. I remember hearing him scream.

4 Q. What else did you hear?

5 A. I remember hearing some sort of loud
6 noises, but the gunshots weren't until I ran up to the
7 door.

8 Q. Do you remember what your dad screamed?

9 A. No. I do not remember. I think it was
10 just "No."

11 Q. So after you heard him scream, what did
12 you do?

13 A. I ran up to the back door.

14 Q. And then what? Or actually, one step
15 back.

16 Where was your dad when you ran up to the
17 back door?

18 A. Outside.

19 Q. Outside where?

20 A. In the backyard.

21 Q. He was no longer on the porch?

22 A. No.

23 Q. When did the gunshots occur?

24 A. By the time I was at the door looking
25 outside.



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1 LD - BY MS. JONES

2 Q. Sorry.

3 Do you remember if that was before or
4 after you got to the back door?

5 Sorry.

6 Do you remember if the gunshots were
7 before or after you got to the back door?

8 A. It was happening by the time I was at the
9 back door.

10 Q. Like around the same time?

11 A. Yes.

12 Q. So what did you see as you got to the back
13 door?

14 A. I saw the officer and -- in my backyard.
15 I saw my dad upset and I saw the officer shooting the
16 dog.

17 Q. So you got to the back door.

18 You saw the officer shooting the dog and
19 your dad in the yard?

20 A. Yes.

21 Q. Then what happened after that?

22 A. Um --

23 Q. Or rather, what did you do after that?

24 A. I remember staying at the back door for a
25 bit. I was a little bit shocked. I didn't know what



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1 LD - BY MR. SHIELDS

2 A. I was in the process of doing so before I
3 was like -- I was about to. But a staff walked in.

4 Q. Okay. And was the reason that that
5 happened because you were triggered by watching the
6 dog be shot in this movie?

7 A. Yes.

8 Q. Okay. And so that -- that incident seeing
9 the dog shot triggered you and that was a couple of
10 years after the incident had happened?

11 A. Yes.

12 Q. So would you say that it -- at least a
13 couple years after the incident happened, you were
14 still being triggered by certain things like seeing a
15 movie where a dog is shot?

16 MS. JONES: Objection.

17 A. Yes.

18 Q. Okay. Were there other things that would
19 still trigger you around that time that reminded you
20 of the officer shooting and killing Tesla?

21 MS. JONES: Objection.

22 A. Yes.

23 Q. Like loud noises?

24 A. Right.

25 Q. And some of those things still affect you



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1 LD - BY MR. SHIELDS

2 and trigger you today?

3 A. Correct.

4 MS. JONES: Objection.

5 Q. And one thing that you discussed a little
6 bit was that at some point your dad moved houses from
7 Kosciusko Street to somewhere else, correct?

8 MS. JONES: Objection.

9 A. Correct.

10 Q. And do you remember when that move
11 occurred?

12 A. Not specifically.

13 Q. Okay. When you came home from Villa of
14 Hope and moved in with your dad, did you move into the
15 new house or did you move back to Kosciusko Street?

16 A. I think by then they were getting the new
17 house.

18 Q. Okay. So after you left Villa of Hope,
19 did you ever go back to Kosciusko Street?

20 A. No.

21 Q. Okay. Ms. Jones asked you a question
22 about the incident itself. And she asked you, I
23 think, if you were ever on the back porch itself at
24 the same time as your dad.

25 But my question is, you never actually



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1 LD - BY MR. SHIELDS

2 exited the door onto the back porch after Tesla was
3 shot on the day of the incident; is that right?

4 A. Correct. I did not.

5 Q. Okay. You just ran up to the back door
6 and could see out the window of the door?

7 A. Yes.

8 Q. Okay. And you said that you got to the
9 back door and the first thing you saw was something
10 like the officer with the gun in his hand and you knew
11 that Tesla was shot. You got there about the same
12 time as the shooting.

13 Is that what you said?

14 MS. JONES: Objection.

15 A. Yes.

16 Q. Do you remember exactly what you saw right
17 when you got to the back door?

18 A. Exactly what I saw was the officer -- I
19 don't remember if he was behind or inside of the
20 fence, but I -- he was inside of the fence and he was
21 holding a gun and my dad was, you know, there yelling
22 and Tesla was there.

23 Q. Okay. And at some point did you see the
24 officer point the gun at your dad?

25 A. Yes.



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1 LD - BY MR. SHIELDS

2 Q. And when the officer was pointing the gun
3 at your dad, was there kind of a direct line from
4 where the officer is pointing the gun behind your dad
5 back to you?

6 A. Um, can you -- what do you mean?

7 Q. Like let's say the officer had shot the
8 gun at your dad and missed.

9 Would the bullet have traveled in your
10 direction?

11 A. No.

12 Q. Okay. Do you remember hearing the officer
13 yell at your dad?

14 A. No. Like I said, like the window was
15 closed. I feel like it's faint, but -- I don't know.

16 Q. Then you said you kind of had like a
17 frozen feeling at that point?

18 MS. JONES: Objection.

19 A. Yes.

20 Q. You said that you stood there for some
21 period of time at the back door?

22 A. Yes.

23 Q. And then at some point Tesla came up onto
24 the porch?

25 A. Yes.



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1 LD - BY MR. SHIELDS

2 Q. Did you ever let Tesla into the house when
3 she came back up on the porch?

4 A. No, I did not. Like I said, I was sort of
5 in that state of -- afterward, I felt guilty like I
6 should have. Like I should have tried to do
7 something. But no, I didn't.

8 Q. Okay. And then after that, you said you
9 went to the living room?

10 A. Yes.

11 Q. And at some point you saw out the window
12 in the living room your dad holding Tesla and trying
13 to stop her from bleeding out?

14 A. Yes.

15 Q. And you said at some point after that you
16 went to your bedroom and you were making a lot of
17 noise, slamming a door?

18 A. Yes.

19 Q. Did the door get damaged from you slamming
20 it?

21 A. Yes.

22 Q. Can you describe the damage to the door?

23 A. Um, the door -- it didn't immediately fall
24 off the hinges, but when I came back to the house,
25 just a couple times moving the door, you could already



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1 LD - BY MR. SHIELDS

2 tell it was a little loose and eventually just fell
3 off.

4 Q. You were -- you were ten years old when
5 this happened?

6 A. Yes.

7 Q. And when you were slamming the -- well,
8 withdraw that.

9 The -- when the police came into the house
10 and told you to be quiet, were you slamming the door
11 at that point?

12 A. I think that's why they came. I was
13 pretty loud, crying, screaming.

14 Q. Did the police do anything to try to
15 console you?

16 A. No. They essentially came in and said,
17 "Calm down. Stop making noise. Relax and stay in
18 here."

19 And then left.

20 Q. Ms. Jones asked a series of questions
21 about things that you told your therapist, Jennifer
22 Bruno.

23 At the time that you saw Jennifer Bruno,
24 that was in 2018 and 2019?

25 A. Yes.



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1 LD - BY MR. SHIELDS

2 Q. How old were you in 2018, 2019?

3 A. 11.

4 Q. Okay. So you were 11 years old at the
5 time that you were seeing Jennifer Bruno.

6 And did the time that you were, you
7 know -- all of the questions Ms. Jones asked you about
8 and the things you told her when you were 11 years
9 old?

10 MS. JONES: Objection.

11 A. Yes.

12 Q. And did you ever -- been in therapy
13 before?

14 A. Before that? No.

15 Q. And she asked you a series of questions
16 about why you didn't bring up the fact that, you
17 know -- continuously talking about Tesla having been
18 shot in -- I think your testimony was that you would
19 speak about what was on your mind at that time?

20 A. Yes.

21 Q. And subsequently after seeing Jennifer
22 Bruno, you saw numerous other therapists; right?

23 A. Yes.

24 Q. With all of the therapists that you saw,
25 did you talk about relationships in your life?



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